Submission Opposing the DNSPs' Ring-Fencing Waiver Application for Electric Vehicle Charging Infrastructure (EVCI)

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Executive Summary

We respectfully submit that the waiver application lodged by CitiPower, Powercor, and United Energy (collectively "the DNSPs") for a ring-fencing waiver concerning their Electric Vehicle Charging Infrastructure (EVCI) trial should not be approved.

The proposal directly contradicts the purpose and principles of the AER's Ring-fencing Guideline by risking market distortion, undermining private investment, and offering no genuine innovation or customer benefit. Its approval would erode consumer and industry trust, distort competition, and set a harmful precedent. In addition, they key feature or outcome that CPU seeks to test here is that of demand response and demand based tariffs. These functions are live in the marked as the submission will highlight below and on that basis we feel the exemption should be refused.

This submission details:

- Contradictions between the DNSPs' claims and the consultation evidence, including their own statements, undermining their justifications for a waiver to ringfencing.
- Incompatibility with the core principles of ring-fencing, which exist to prevent monopoly abuse and promote competition.
- Lack of innovation and duplication of technology and competitive markets that exist in deployments delivered in other jurisdictions.
- The likely negative impacts on consumers and the broader EV market, including increased costs, reduced competition, and delayed innovation.
- The already existing market tests on demand response utilising flexible and demand-based tariffs (example below includes Ausgrid's EA964)

Background and Context

The DNSPs seek a waiver from Clauses 3.1 and 4.2 of the AER's Ring-fencing Guideline (Version 4, February 2025), covering:

- Legal separation between monopoly and contestable services.
- Functional separation of offices, staff, branding, and promotions.

The Ring-fencing Guideline exists to:

- Promote competition in contestable electricity services.
- Prevent cross-subsidisation by DNSPs using monopoly revenues to fund competitive ventures.
- Protect consumers from distorted markets and inflated costs.

The DNSPs' proposal for 100 EVCI locations, utilising their regulated network infrastructure and staff, and seeking waivers of key separation rules, undermines these principles.

Contradictions Between DNSPs' Claims and Evidence

Aspect	DNSPs' Claim	Contradictory Evidence
Market Impact	"Our trial will not impede private sector participation"	Consultation noted: 'DNSPs with established infrastructure and cost structures could unfairly dominate the early market, deterring new entrants.'
Innovation	"The trial is innovative and will deliver critical insights"	Dynamic EVCI management and demand-aligned rollouts already exist in NSW, and internationally. No novel technology or approach is proposed.
Consumer Benefit	"Lower costs, faster deployment, improved reliability"	Using regulated resources creates an unlevel playing field, risking higher long-term costs and reduced private investment. Furthermore, as per the consultation, similar CER waivers have not delivered savings or deployment targets proposed.
Trial Scale	"A limited-scale trial of 100 sites"	100 sites with long-term plans resemble a commercial rollout. Locations target high-demand areas, contradicting 'gap-filling' claims.
Role of DNSPs	"We are not seeking to be the provider of last resort"	This contradicts their argument that DNSP involvement is essential. Private providers already deploy EVCI without ring-fencing breaches.
Cost Allocation	"Costs will be properly separated using CAM"	The proposal blurs regulated and unregulated functions (shared staff, resources, branding), contrary to Clause 3.2.2's strict separation.
Site Selection	"Based on demand and consultation with government"	Consultation suggests locations overlap with high-demand areas where private providers are already active or planning rollouts.
Market Impact	"Our trial will not impede private sector participation"	CPU do not propose to charge themselves Facilities Access Charges this gives them distinct cost advantages over private sector participants. When questioned on these charges CPU suggest that reducing these charges to the private sector participants would be to customers detriment.

Ring-Fencing Framework and Consumer Interests

The Ring-fencing Guideline is clear:

- DNSPs must not cross-subsidise contestable services with regulated revenues.
- DNSPs must maintain separate offices, staff, branding, and promotions.
- Waivers are exceptional and must prove consumer benefit that cannot otherwise be achieved.

The DNSPs' proposal fails these tests. Rather than fostering competition, it risks entrenching their monopoly advantages in the emerging EV charging market. Consumers will suffer from higher prices, reduced innovation, and fewer choices.

DNSPs claims that they are capable of delivering this infrastructure at a lower cost and at a faster rate are vexatious and made without evidence.

Lack of Genuine Innovation and Redundancy

The DNSPs present their EVCI trial as 'innovative', yet:

- Dynamic control and demand response technologies are already in use, for this explicit purpose in NSW, and globally.
- Private-led EVCI projects already integrate network data, dynamic load management, and optimised site selection.
- The proposal duplicates existing capabilities without introducing novel technology or operational models.

Claims that within their operating model submission, "roaming" and use of OCPI is innovative (section 2.1.1) are false. Existing providers of electric vehicle charging infrastructure (EVCI) are capable of and delivering roaming technology to end users. EVX are currently undertaking roaming integration initiatives with up to three existing EMSPs in the local market.

Further claims within section 2.1.2 that "Leasing kerbside EVCI to CPOs in a multi-EMSP framework" will deliver a more competitive, better user outcome are misguided. Issues with the model include:

Introducing an unclear operating complexity and cost input for EMSPs. Questions here include

- What are the proposed "lease" costs, are they fixed at each site and costs evenly distributed via providers depending on the number who choose to integrate at each site.?
- How does duplicating lease costs among all providers reduce the ongoing costs of delivering this service?
- Are DNSPs income on leases capped per piece of EVCI or do they have an unlimited number of providers paying leases at each location?
- How does "separating asset ownership from service provision" deliver better customer outcomes when there are technical enquiries from end users?
- The use of "open standards" suggests that the competitive market is capable of delivering a similar service without the need for ringfencing exemptions?
- Why are custom application programming interfaces (APIs) required if this is driven by "open standards" (OCPI) and what are the costs to build the API for each EMSP?

Duplication of industry efforts, funding projects by ARENA and works already underway from other CPOs

Section 2.1.3 of the proposed operating model asserts that:

- "The proposed model integrates dynamic demand management by enabling tariff responsiveness based on system conditions"
- "While the kerbside EVCIs will not initially implement active demand response (i.e. interrupting or modulating charging), our pricing team will be considering a variety of potential new tariffs that can better manage more broadly constraints on low voltage network across our networks"

Work on this is already underway or in place in many existing deployments or planned projects. This includes:

https://arena.gov.au/projects/evx-chargekonnect-kerbside-ev-charging-project/

This ARENA project delivers key outcomes including:

- Validation of an innovative BEV charging technology and business model that can support grid stability, utilising passive (e.g. pricing signals) and active means of energy control.
- Reduced cost and complexity of deploying public EV charging infrastructure.
- Industry collaboration to develop standards and platforms supporting BEV charging.
- An Open Charge Point Protocol (OCPP) protocol driven active control solution for DNSP's to manage extraordinary peak load times, when required.
- Achieve grid integrated infrastructure that promotes both better grid stability for DNSPs and better commercial outcomes for charge point operators.
- Ensure access to equitable and comparatively inexpensive public charging is available to those who cannot charge at home.

Section 2.1.3 duplicates this work and the work of many others in the industry. It does not even promise to deliver this functionality. This section of the operating model for the purposes of a waiver should not be considered. Our recommendation if CPU has the appetite to deploy trial tariffs that encourage flexibility they do this with CPOs already developing the customer interface to deliver this.

Finally on this point. Ausgrid are already running a flexible load trial tariffs with a critical peak price (CPP). The key component CPU insists will deliver findings is already, in principle in place in NSW and delivering outcomes (next page). This trial proves that the proposed outcomes are already being delivered by the market using pricing mechanisms and technology already available.

EVX suggest that if CPU were serious in testing demand response, then they should implement tariff reform, designing and offering flexible tariffs, for all operators, therefore being able to test response across the entire charging sector, not just limited to their own 100 chargers.

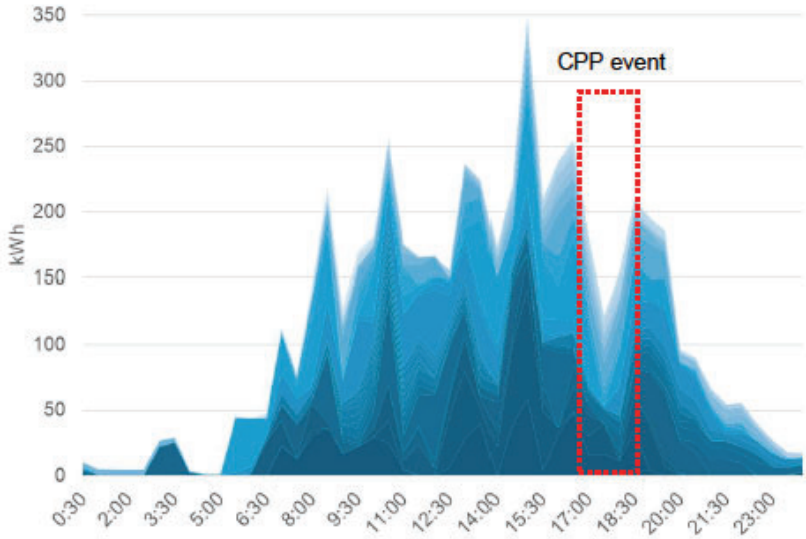
3. Flexible load with CPP

In July 2023 Ausgrid introduced its flexible load trial tariffs with a critical peak price (CPP). The main purpose of the trial is to better understand electric vehicle (EV) charging patterns with an event-based usage price. Separate residential and small business tariffs were introduced and each tariff allows up to 40 hours a year of CPP event time. Retailers are notified a day ahead of an upcoming event by email and/or SMS message.

The small business version of the trial is an ongoing success. As of February 28th, we have four retailers and 124 customer sites participating in the trial. The participating customers are EV charging facilities and include service station premises and pole mounted charging kiosks. Most of the charging locations are in inner Sydney suburbs including Leichhardt, Randwick, Woollahra and Waverley. In FY26 we will be encouraging our participating retailers to broaden the geographic coverage of the trial and include more customers on the NSW Central Coast and Hunter regions.

Since 1 July 2024 we have called 12 critical peak events with a total of 24 hours and these have occurred at times of high demand on the network. A review of the meter data from each event day shows that some customers are responding to the price signal, while others choose to continue charging (and have the CPP applied in the network charge billing to their retailer). The chart below shows the response from 75 EV charging customers on 27th December 2024, a day when the temperature in Sydney reached 37 degrees.

Chart 1. Energy usage by EA964 customers on 27 December 2024



We will continue to gather data from these event days to understand more about this customer behaviour. For example, we would like to know whether the vehicle owner sees the CPP, or whether it is managed by the retailer. We would like to understand whether two hours is long

Claimed Cost Advantages and Contradictions

The DNSPs claiming that they can deliver and maintain this infrastructure are highly unlikely to be proven true. They claim that they can "***exercise of economies of scope***". EVCI devices are not utility scale pieces of infrastructure and can be maintained by any electrical contractor. No specialised training or certification is required to service and maintain EV chargers meaning the existing electrical contractor base is far better placed in terms of cost and skills availability to maintain these networks of assets.

DNSP intervention will take away opportunity and competition for the service and maintenance of public EV charger networks leading to higher costs and significant delays in maintaining uptime.

DNSPs claim they will save costs due to "***utilisation of existing in-house capabilities***" which contradicts their claims that they will ensure "***Costs will be properly separated using CAM***". Again, the formation of policies, procedures and updating the scope of works for their internal teams is a duplication of what is readily available in the domestic and commercial electrical contracting market and is anticompetitive.

The DNSPs claim "***experience in procurement at scale"*** while also stating that this project is only "***A limited-scale trial of 100 sites***".

Fundamentally and historically, monopolies do not and have not reduced costs for consumers.
The contradictions here are

1. 100 sites, is not claimed to be of substantive scale
2. That 100 devices, is in some way going to provide procurement advantage over the competitive market who already manufactures and procures in the thousands of units per annum.

Finally DNSPs claim to have **"expertise in software support"**

As stated by Daniel Bye within the contestable businesses unrelated to DNSPs and industry workshop **"We don't have a customer facing role in this".**

Infrastructure owners in the provision of EV charging as a service have a critical role to play in supporting those customers, in real time via software and technical support. Customer service, equipment and technology issues and various EV types as they relate to that hardware, are critical to understand in providing a seamless service.

DNSPs have no knowledge base or real-world experience assisting either customers or intermediary service providers of EV charging with technical support. With no connection or customer facing role by DNSPs, EV drives will be left stranded by the roadside searching for answers from EMSPs with no visibility or ownership of the devices thy are integrated with and delivering services on.

We would query any perceived advantage that the DNSPs think they have in terms of innovative software and service solutions when by their own admission they do not intend to have any means of customer interfacing support.

They have also outlined a strategy that will see 3rd parties and vendors providing ultimate endpoint support and management of those systems. Also that "***Specialised software maintenance or firmware upgrades will be procured from third-party providers as required***"

The question becomes, where is the claimed **"expertise in software support"** when they intend to have vendors and 3rd parties provide all the required tools.

Section 2.1.4 Our cost advantages in hardware procurement and maintenance **Should be disregarded when considering any ring fencing waiver application.**

Finally, we would like to understand more about the claimed cost per site that CPU are putting forward ($6000-$6500 per EV charger) This seems quite high. EVX are currently deploying dual port EV chargers for less than this amount per port when we remove the DNSP application and connection fees which we presume CPU will not charge themselves.

We would also like to enquire as to the hardware proposed and its compliance with the VSIR service and installation rules. This is important as it adds costs and is imposed on the competitive market

Consumer Harm and Market Distortion

If granted the waiver would:

- Enable DNSPs to leverage monopoly advantages to undercut private competitors, even in high-demand areas. In the long term this will lead to less consumer choice and competition and no accountability for networks to provide good customer service and outcomes due to lack of opposition. DNSPs can then implement **predatory pricing models** forcing EMSPs to pay their lease costs and undercutting other local providers. Strategically then citing further market failure exacerbated by the granted waiver application.
- Reduce private investment, limiting consumer choice and slowing innovation. Investors and industry are watching this decision very closely. A signal to the market that the regulator is willing to accept network ownership of any consumer energy resources behind the meter will be disastrous. Innovation and investment will be decimated.
- Set a precedent for similar waivers in other jurisdictions, undermining the ring-fencing framework's integrity right across the CER landscape.

In CPUs supplementary response to the AERs concerns, section 2.5 "Long term interests of customers" they assert that market participants "do not wish networks to be involved in EVCI". They also Claim that "The economies of scale and scope offer the possibility of a lower cost service and secondly, a higher quality service with increased availability and reliability"

As discussed above these statements of increased scale and reliability are misleading and should be dismissed as speculation at best. EVX operate a highly reliable network at over 99.9%, as per our requirements under state funding guidelines at over 100 locations already. We can and have been deploying over 6 new charge points every single week in 2025 and realised our own cost savings in production and scale of over 20% through that activity.

In Victoria the industry has not even been given the chance to get off the ground, largely due to the DNSP holding up contract negotiation and finalisation of the network standards and permissions to start installing the infrastructure. EVX have been in discussions with CPU for over 1.5 years. EVX will start installing now on the 11th of June 2025 and anticipate a significant scale up in the coming months. We are also aware of others planning similar projects that have experienced significant delays in negotiating and finalising agreements.

There is no requirement for DNSP waivers as a backstop to the lack of infrastructure now that providers have been given permission to deploy. EVX will however, due to restrictions in our agreements with CPU be limited in scope to just 60 locations in the CPU service area.

The question then becomes, why have CPU allowed for a project of 100 locations when EVX can only reasonably deploy 60 under the revised FAA costs being limited in scope.

CPU has also claimed that they have discounted FAA fees for current participants. This is only partially true and the number of sites "discounted" is limited in nature, realistically limiting the competitive market despite admitting their own trial will not incur those costs through the project cost allocations. This is anticompetitive and provides unfair advantage to CPU and their chosen EMSPs over other infrastructure owners.

Lack of Evidence on Challenges with the Kerbside Charging Business Model

The DNSPs' application fails to substantiate claims that kerbside EV charging presents unique challenges that necessitate DNSP involvement.

In practice, private providers in numerous jurisdictions have successfully implemented kerbside and pole-mounted charging systems without the need for DNSPs to become involved. Private sector innovation has overcome barriers such as site selection, community engagement, and technical integration, often in partnership with local councils. Moreover, evidence from trials and commercial deployments in Australia and internationally indicates that these solutions can be deployed efficiently and at scale.

The DNSPs' proposal lacks empirical data or case studies demonstrating that kerbside charging is unviable without their participation, only pointing to the lack of infrastructure in their service area, which is largely of their own doing. On the contrary, allowing DNSPs to enter this market under a waiver would likely suppress further private sector innovation and investment.

Providers in NSW are undertaking enormous programs of deployment with and without government funding and with great success and exponentially increasing utilisation of those networks each and every month.

Claims of commercial challenges with the kerbside business model are unsubstantiated, harmful and DNSPs should cease making any further statements to this effect.

Lack of Proof of Market Failure

A critical flaw in the DNSPs' waiver application is the lack of substantive evidence demonstrating market failure in the provision of Electric Vehicle Charging Infrastructure (EVCI).

The DNSPs suggest that their involvement is necessary to address an infrastructure gap, yet they provide no compelling data indicating that private sector providers are unable or unwilling to meet demand. This omission is particularly concerning considering successful kerbside (pole mounted and otherwise) and public charging projects already underway in multiple jurisdictions, including New South Wales, where private investment has delivered scalable and innovative solutions.

Indeed, the DNSPs themselves acknowledge that private providers are capable of participating through expressions of interest (EOI) processes. The absence of demonstrated market failure undermines the core justification for the waiver and suggests that the proposal risks crowding out viable private investment, that of which the DNSP seems so concerned with.

Our recommendations to the AER to better enable market driven solutions in VIC and right across Australia include.

1. Make Facilities Access Costs (pole leasing fees) standardised and cost reflective. Regulate the amount that DNSPs are allowed to charge to balance delivery of infrastructure with market demand for kerbside charging. Additionally, these fees should be published publicly and not closed-door negotiations.
2. Rather than allowing DNSPs to own infrastructure (EVCI) and lease to service providers, force DNSPs to publish standards and site selection criteria and open this up to all potential providers who have an interest in delivering public EVCI who meet those standards and requirements.
3. Strengthen ringfencing requirements to ensure that unregulated associated entities of the DNSPs are not afforded unfair cost advantages when planning and installing EVCI by ensuring costs are passed on in full as they would be to the competitive market.

4. DNSPs should have a requirement to publish network capacity information to aid in faster and more streamlined planning for CPOs
5. Test demand based tariff structures with current market participants as is being done in NSW successfully.

Response to claims made in AER workshop with DNSPs

Statements around lack of deployment in CPU service area and claims around operating models

CPU in the DNSP workshop transcripts lay blame on several issues which have not been major contributors to delays in deployment of kerbside EV charging in the CPU service area. These include:

CPU Blames local government bureaucracy for delays in deploying EV charging.

These statements are not correct. We have been working with councils in VIC who have been ready and willing for deployments in their LGAs for some time, delays here have been with CPU negotiations.

CPU blame an inadequacy of local and reasonably priced electrical contractors to install and maintain the infrastructure.

This statement has no basis in fact, we have had electrical contractors quoted and ready to deploy for some time at reasonable rates. CPU field staff are charged out in their 23-24 pricing proposal at $197.29 per hour during business hours. Standard contracting prices are around $110 per hour.

CPU claim that even with "discounted" FAA fees, that those discounted fees are still impeding the roll out of kerbside EV charging infrastructure as the model is still not economical without government funding.

This statement is false. EVX have deployed a number of locations with no government support in metro and regional areas. NSW DNSPs have had lower FAA costs in place with EVX since 2022 and with no pressure from state government. These agreements have been in place well before the introduction of any State or Federal Government funding programs.

CPU have made statements such as "So we're talking 100 sites, the utilisation of these for a dedicated Bay is about 4%. We're talking about 7000 kilowatt hours potentially at its best. At its worst, it's less than 1%, maybe a couple hundred kilowatt hours a year."

We are unclear where these utilisation assumptions have come from. EVX locations nationwide have an average time utilisation rate of 10% and in metro areas like the locations sought for the waiver, on average perform at over 20% and in many cases up to 40%.

This further dispels the idea that somehow these locations are commercially not viable with reasonable input costs from the DNSP on pole lease fees.

Claims of FAA fees being at a discount and comparison with the telecommunications industry

The narrative around "discounting" FAA costs and comparison with the telecommunications industry fees need to be disregarded entirely. In NSW EVX have had FAAs in place as early as October 2022. Claims that these agreements were reduced in cost to any degree or with state government pressure are false. EVXs earliest FAA was entered into long before any State Government incentive or grant program. Fees in these agreements in NSW are as indicated by CPU in the transcripts from the workshop on the 5th of May. EVX cannot disclose the commercials however they are substantially more reasonable than those proposed in

VIC and SA Currently. In our view the DNSPs in NSW entered these agreements, setting reasonable commercial parameters for these fees willingly at the time the agreements were drawn up.

Comparisons drawn between telecommunications assets and EV chargers are also not useful or representative of the contribution EV chargers make to the network cost recovery. Public EV chargers are metered supplies and far more significant consumers of electricity than cables and small cells installed by telecommunications providers. Telco assets are often unmetered, and we would anticipate that their FAA costs reflect this.

EV charger owners have a network connection like any other business and provide regulated returns to the network via the network tariffs paid that in most cases make up roughly 40% of the electricity cost for those sites.

Conclusion and Recommendations

In summary, the DNSPs' ring-fencing waiver application is fundamentally flawed and contrary to the long-term interests of electricity consumers and the broader EV market. It fails to provide sufficient evidence of market failure or insurmountable challenges in kerbside charging infrastructure. The proposal risks distorting competition by allowing DNSPs to leverage monopoly advantages in a nascent competitive market, thereby deterring private investment and innovation. It duplicates existing initiatives in other jurisdictions, provides no genuine innovation, and undermines the principles enshrined in the AER's Ring-fencing Guideline. We strongly urge the AER to reject this waiver application to protect competition, promote innovation, and safeguard consumer interests in Victoria's transition to electric mobility.

In Summary the DNSPs' waiver application:

- Contradicts the core principles of the Ring-fencing Guideline, risking consumer harm.
- Duplicates existing projects without offering innovation.
- Fails to demonstrate unique consumer benefits that justify an exemption.

The AER should reject the waiver application to:

- Uphold ring-fencing principles.
- Protect competitive markets and consumer interests.
- Encourage genuine innovation by private providers.